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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91227208
Party	Defendant LTD2 Brand Holdings LLC
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Date	05/26/2016
Attachments	91227208 Exhibit A in Support.pdf(2846731 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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	:	
Tween Brands Investment, LLC,	:	
	:	
Opposer,	:	Opposition No. 91227208
	:	Serial No. 86/730949
v.	:	Mark: LIMITED TOO IT'S A
	:	GIRL'S WORLD
LTD2 Brand Holdings LLC	:	
	:	
Applicant.	:	
	:	
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**EXHIBIT A TO STIPULATED MOTION FOR SUSPENSION**

In response to the order issued by the Trademark Trial and Appeal Board ("the Board") on May 19, 2016, enclosed is a copy of the civil complaint identified as Exhibit A in the Stipulated Motion For Suspension submitted to the Board on May 12, 2016 in the above-referenced opposition proceeding.

Respectfully submitted,

DORSEY & WHITNEY LLP

By:       /bre/      

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*Attorneys for Applicant*  
*LTD2 Brand Holdings LLC*

## **CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing EXHIBIT A TO STIPULATED MOTION FOR SUSPENSION was served by first-class mail this 26<sup>th</sup> day of May, 2016, upon Opposer's correspondent of record as follows:

Alexander Kaplan  
PROSKAUER ROSE LLP  
Eleven Times Square  
New York, New York 10036-8299

/tek/

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Thomas E. Kearney

# EXHIBIT A

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

TWEEN BRANDS INVESTMENT, LLC, an  
Ohio limited liability company,

Plaintiff,

vs.

BLUESTAR ALLIANCE LLC,  
a New York limited liability company, LTD2  
BRAND HOLDINGS LLC, a New York  
limited liability company, and  
The Beanstalk Group, LLC, a Delaware limited  
liability company,,

Defendants.

CASE NO. 15-CV-2663

JUDGE GREGORY L. FROST

MAGISTRATE JUDGE ELIZABETH  
PRESTON DEAVERS

**FIRST AMENDED VERIFIED  
COMPLAINT**

**(DEMAND FOR JURY TRIAL)**

Plaintiff, Tween Brands Investment, LLC (“Plaintiff”), by and through its attorneys, for its complaint against defendant Bluestar Alliance LLC (“Bluestar”), defendant LTD2 Brand Holdings LLC (“LTD2”), and defendant The Beanstalk Group, LLC (collectively, the “Defendants”), alleges as follows:

**NATURE OF THE ACTION**

1. In this action, Plaintiff seeks injunctive and monetary relief for acts of copyright infringement under the laws of the United States, Title 17, United States Code (hereinafter the “Copyright Law”); for unfair competition and trademark infringement under the laws of the United States, Title 15, United States Code (hereinafter the “Lanham Act”); and for acts of unfair competition and unjust enrichment under applicable Ohio law.

### **PARTIES AND JURISDICTION**

2. Plaintiff Tween Brands Investment, LLC is an Ohio limited liability company with its principal place of business at 8323 Walton Parkway, New Albany, OH, 43054, that receives by assignment intellectual property created by its affiliate, Tween Brands Service Co. (“Tween Brands Service”) and licenses said intellectual property back to the same to use in the regular course of its business, including the copyrighted works, trademarks, and trade dress rights that are the subject of this Verified Complaint and causes of action related thereto.

3. Upon information and belief, defendant Bluestar is a New York limited liability company with its principal place of business at 1370 Broadway, Suite 820, New York, NY, 10018. Upon further information and belief, this action began with Defendant’s alleged acquisition of rights to the LIMITED TOO retail brand from an Ohio-based company and, further, arises from Defendant Bluestar’s business transactions in the State of Ohio, its willful copying of Plaintiff’s intellectual property created and located in the State of Ohio, and unfair competition and other intentional tortious acts directed at and causing injury to Ohio-based Plaintiff and its affiliate and authorized licensee, Tween Brands Service.

4. Upon information and belief, defendant LTD2 is a New York limited liability company with its principal place of business at 1370 Broadway, Suite 1107, New York, New York, 10018. Upon further information and belief, LTD2 is a subsidiary or other affiliate of defendant Bluestar that uses, owns and/or licenses the LIMITED TOO rights allegedly acquired by defendant Bluestar and, further, has engaged in intentional acts of unfair competition directed at and causing injury to Ohio-based Plaintiff and its affiliate and authorized licensee, Tween Brands Service.

5. Upon information and belief, the actions of LTD2 described herein were directed and/or performed by Bluestar, such that there is no meaningful distinction between the two entities for the purpose of this First Amended Verified Complaint.

6. Upon information and belief, defendant The Beanstalk Group, LLC (“Beanstalk”), formerly John Doe 1, is a Delaware limited liability company with its principal place of business at 220 East 42nd Street, New York, NY, 10017. Upon further information and belief, Beanstalk maintains an office in Cincinnati, Ohio and is subject to the general jurisdiction of this Court. Upon further information and belief, Beanstalk also has engaged in willful acts of copyright infringement directed at and causing injury to Ohio-based Plaintiff.

7. This action arises under Title 17 of the United States Code relating to copyrights; Title 15 of the United States Code relating to unfair competition; and the statutory and common law of the State of Ohio. This court has original jurisdiction over this action under 28 U.S.C. §§ 1331, 1338 and 1367, and under 15 U.S.C. § 1121. This Court has jurisdiction over the state claims pursuant to 28 U.S.C. §§ 1332, 1338(b) and 1367(a), and the doctrine of pendent jurisdiction. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b)) and 1400(a) given that a substantial part of the events or omissions giving rise to the claims occurred in this judicial district.

### **FACTS RELEVANT TO ALL CLAIMS**

#### **The Famous JUSTICE Stores**

8. Plaintiff and its related entities (collectively, “Tween”) operate retail and online stores selling clothing and accessories for girls aged 7 to 14 (“tweens”). Tween operates more than 900 stores in both the United States and Canada and an online retail site under the brand name JUSTICE. See [www.shopjustice.com](http://www.shopjustice.com). The iconic JUSTICE look focuses on taking trends in the women’s wear market and translating them for the “tween-age” market, so that the clothes

sold in JUSTICE stores are the hottest fashion and in sync with the fashion designs on the runways, and appeal to both mothers and their tween girls.

9. Tween initially owned and operated similar stores under the licensed name LIMITED TOO. A brief history is as follows: In the late 1980s, the Limited Inc. women's clothing retail group, later named Limited Brands Inc., started a line of stores for tweens called LIMITED TOO. In 1999, the brand was spun off into a separate company known as LimToo Inc., which later became Tween Brands Inc. The corporate entity owning the LIMITED TOO brand was known as Limco, Inc.

10. In 1999, Limco, Inc. entered into a license agreement with LimToo, Inc., granting it the right to use the LIMITED TOO trademarks in connection with "the manufacture, packaging, advertising, promotion and sale (whether in stores, catalogs or via the Internet) of apparel, accessories, lifestyle and personal care products for girls approximately 7 to 14 years of age, and any other business ... specifically and uniquely targeted at girls between the ages of 7 and 14, infants and toddlers" (hereinafter, the "LIMITED TOO License").

11. Too Brands Investment, LLC, which later became Tween Brands Investment, LLC, was the successor in interest to LimToo, Inc. under the LIMITED TOO License.

12. In 2009, Tween renamed its 500-plus LIMITED TOO stores as JUSTICE stores.

#### **The Clothing Designs and Daisy Copyrights**

13. At all times during the LIMITED TOO License, Tween was actively engaged in the business of creating, acquiring and exploiting rights in and to original designs and artwork and incorporating such designs and artwork in clothing and related items and advertising materials.



14. Plaintiff owns all rights in the copyrightable intellectual property created by Tween, and/or obtains all necessary licenses from third-party copyright owners for materials Tween uses in its business, including but not limited to advertising, fabric and clothing designs and other original works.

15. Plaintiff owns the copyrights in the artwork in the below original clothing and bag designs (hereinafter the “Clothing Designs”) (true and correct copies of the artwork and the relevant copyright registrations are attached hereto and incorporated herein as Exhibits A–F) as follows:

<u>Design</u>	<u>Creation Date</u>	<u>Registration Date</u>	<u>Registration Number</u>
Hope	9/20/2013	July 23, 2015	VA0001963211
Zebra	9/26/2013	July 23, 2015	VA0001963207
Heart	9/25/2013	July 23, 2015	VA0001963210
Love	9/20/2013	July 23, 2015	VA0001963213
Giraffe	9/26/2013	July 23, 2015	VA0001963214
Tiger	9/17/2013	July 27, 2015	VA001963564

16. Plaintiff owns the copyright in the artwork for a daisy design (hereinafter the “Daisy Design”) and has obtained a copyright registration in the original elements of that design (a true and correct copy of the artwork and the copyright registration, issued under Plaintiff’s prior corporate name, Too Brands Investment, LLC, are attached hereto and incorporated herein as Exhibit G) as follows:

<u>Design</u>	<u>Registration Date</u>	<u>Registration Number</u>
Daisy	7/11/2005	VAu 678-262

**The JUSTICE Photograph**

17. By virtue of assignment, Plaintiff owns the copyright in the original elements of a photograph of five girls wearing JUSTICE clothing (hereinafter the “Photograph”) (a true and correct copy of the artwork and the U.S. Copyright Office online database record showing registration of the copyright are attached hereto and incorporated herein as Exhibit H) as follows:

<u>Photograph</u>	<u>Creation Date</u>	<u>Registration Date</u>	<u>Registration No.</u>
Five Girls in Justice Clothing JU14SPR2_S13B_076	December 4, 2013	July 28, 2015	VA0001963927

Tween used this Photograph in its marketing materials in 2014, including in a printed “catazine” (catalog/magazine) distributed to at least 3.1 million people and in online marketing, which translates into high visibility in the relevant market. Before publication, Tween made alterations to retouch the original Photograph (*e.g.*, eliminating the white background panels, eliminating some fly-away hairs, and cropping the girl’s arms out on the far right). Upon information and belief, all publicly accessible copies of the Photograph included the mark JUSTICE on or in close association with the Photograph. The Clothing Designs, Daisy and Photograph are hereinafter jointly referred to as Plaintiff’s “Copyrighted Works.”

**Defendant Bluestar’s Recent Acquisition of the LIMITED TOO Trademarks**

18. According to a press release, “Bluestar Alliance LLC was founded in 2007 by Joseph Gabbay and Ralph Gindi. It owns, manages and markets a portfolio of consumer brands including Kensie®, Nanette Lepore®, Catherine Malandrino®, Joan Vass®, English Laundry®, Kooba®, Yak Pak®, Mac + Jac®, Harvé Benard® and Limited Too®.”

19. Defendant Bluestar announced on July 20, 2015, that it had acquired the LIMITED TOO brand trademarks. As set forth in its press release, Bluestar stated: "Limited Too is a girl's market leader with a solid foundation of brand loyalty," said Ralph Gindi, COO of Bluestar Alliance. "Over the years Limited Too has brought fun and joy to children's fashion shopping experiences and holds a special place with the millennial moms who are now having children of their own. Limited Too's global distribution strategy into department stores will enhance the enjoyment of family shopping, through in-store shop in shops, stand-alone retail locations and e-commerce. The product mix will fill a void in the market where fashion, fun and value are all in-sync," commented Joey Gabbay, CEO of Bluestar Alliance.

20. The press release continues: "We will engage in a social media and marketing blitz that will have a clear and concise message to both the tween consumer and her mom, that 'It's time to have fun shopping again'. Our goal from a marketing perspective is to uphold Limited Too's branded lifestyle mission and to enable girls of all ages to express their individuality and creativity through diverse categories that stay true to the brand DNA and mantra of 'It's a Girls' World'," stated Rebecca Karakasli, VP of Marketing. "There are not many brands where best friends can share their styles from head to toe, be it for school days, sleepovers or just simply taking selfies together. We will be running a national contest to find these BFF's to be the fresh faces for the Limited Too brand."

21. According to the press release, simultaneously with the closing, Limited Too has signed on industry leaders as strategic licensing partners: Longstreet Apparel for Girls Sportswear, Jay Franco and Sons for Bed and Bath, United Legwear for Hosiery and Sleepwear and H.E.R Accessories for Jewelry, Hair, and Cosmetic Collections. Additional

categories in the Apparel, Home Décor and Accessory classification categories are in negotiations.

**The Infringing Uses of Plaintiff's Copyrighted Works**

22. Until after the filing of Plaintiff's Verified Complaint, Bluestar had two main references on its home page to LIMITED TOO, *and both were copied from Tween and blatantly infringe upon Plaintiff's Copyrighted Works!* Following receipt of Plaintiff's Verified Complaint, representatives for Bluestar claimed they had obtained Plaintiff's Photograph from a slide deck prepared by Defendant Beanstalk. The Beanstalk slide deck features multiple photographs commissioned and used by Plaintiff to promote its JUSTICE brand retail stores and products, in addition to a version of the Photograph altered to include the LIMITED TOO trademark and other language.

23. During the time period following Bluestar's big announcement that it was relaunching the LIMITED TOO brand, Bluestar's website prominently depicted Plaintiff's Photograph. This photograph features five models wearing Tween's Clothing Designs sold in JUSTICE stores. (A true and correct copy of the photograph as it appeared on Defendant's website at <bluestaralliance.com> is attached hereto and incorporated herein as Exhibit I.)

24. Bluestar's photograph is a different version of Plaintiff's published Photograph in that, unlike any of the published versions of the Photograph, it contains the white background panels and arm of the girl on the far right.

25. Bluestar's website also depicted multiple copies of the Daisy on its home page (a copy of Defendant's infringing webpage is attached hereto and incorporated herein as Exhibit J) (hereinafter Defendants Beanstalk and Bluestar's infringement of the Photograph, Clothing Designs and Daisy are collectively referred to as the "Infringing Materials").

26. Upon information and belief, Defendants likely have obtained unauthorized access to other works of Plaintiff.

27. Bluestar has refused to abstain from using the remaining photographs and clothing designs featured in the Beanstalk slide deck that feature Plaintiff's intellectual property. Accordingly, upon information and belief, Bluestar must be enjoined immediately from further accessing Tween's materials and from further use of those materials in its impending "social media and marketing blitz."

**Defendant Bluestar Also Is Causing a Likelihood of Confusion**

28. Beyond just the artistic value of the Photograph and Plaintiff's original clothing and bag designs, the Photograph features several elements that are iconic of Plaintiff's JUSTICE brand and, upon information and belief, these elements have come to represent the JUSTICE brand to consumers. Specifically, the clothing designs include extra features, such as the use of 3-D elements (*e.g.* ruffles, fringe, sequins, extra glitter), that increase the cost of an item significantly but serve to set JUSTICE brand clothing apart from competitors. Several of the design features in the Photograph have been used multiple times on JUSTICE clothing. For example, the hope and love graphics (with icons replacing letters) have been used in the same font multiple times, sometimes against different backgrounds and sometimes with the images arranged differently, for example, in a square. These multiple uses have taken place over time and across multiple product categories such that the designs have become highly identifiable with the JUSTICE brand. Similarly, the tiger design has been repeated in other products in other seasons because of the success of the designs. Moreover, the zebra and giraffe shirts shown in the Photograph were extremely popular, selling at approximately twice the rate of other shirts in the same time frame. The five models featured in the Photograph also were used multiple times

in JUSTICE advertising campaigns. Upon information and belief, consumers viewing Bluestar's announcement would recognize the designs featured in the Photograph as originating from Plaintiff's JUSTICE brand.

29. Bluestar also has co-opted the phrase IT'S A GIRL'S WORLD from Plaintiff. In its announcement of the alleged purchase of the LIMITED TOO trademarks, Bluestar repeatedly and prominently used the phrase, "It's A Girl's World," and continues to prominently display the phrase on its website. A true and correct copy of Bluestar's website displaying IT'S A GIRLS WORLD is attached hereto as Exhibit K.

30. For over six years, Plaintiff owned a federal trademark registration, U.S. Reg. No. 3,339,342, for IT'S A GIRL'S WORLD in International Classes 016 (for writing instruments), 025 (for clothing, namely, shirts), and 035 (for retail store, on-line store, and mail order catalog services all featuring clothing, cosmetics, electronics, sunglasses, bags, jewelry, paper goods, stationery and writing instruments, home products, pet items, toys and accessories) ("Prior Registration"). The registration was cancelled on June 27, 2014.

31. Upon information and belief, use of IT'S A GIRL'S WORLD in interstate commerce, at least in connection with services in Class 035, has continued, as shown in the attached third party listing on [www.ziplocalonline.com](http://www.ziplocalonline.com) for a JUSTICE store in Kennewick, Washington, a true and correct copy of which is attached as Exhibit L, and other similar listings that are readily accessible online.

32. Upon information and belief, there is residual goodwill associated with Plaintiff's IT'S A GIRL'S WORLD trademark, which goodwill belongs to Plaintiff as the owner and, with its affiliates, as the creator and exclusive user of the mark in connection with the previously registered goods and services, as well as other goods and services.

33. On July 22, 2015, LTD2 filed an application, U.S. Ser. No. 86701591 for IT'S A GIRL'S WORLD in International Class 025 (the "New Class 025 Application") for:

Clothing for men and women, namely, boxer shorts, briefs, underwear, panties, lingerie, nightgowns, nightwear, pajamas, blouses, collared shirts, button down shirts, dress shirts, polo shirts, shirts, knit shirts, knit tops, camisoles, t-shirts, tank tops, vests, sweaters, shorts, skirts, dresses, skorts, bottoms, pants, cargo pants, slacks, jeans, leggings, lounge wear, fleece bottoms, fleece pullovers, fleece shorts, fleece tops, hooded sweat shirts, athletic shirts, athletic shorts, athletic pants, athletic jackets, athletic uniforms, golf shirts, golf shorts, jerseys, sweat pants, sweatshirts, sweat shorts, hooded sweatshirts, swim wear, beachwear, board shorts, suits, blazers, neckwear, scarves, jackets, coats, raincoats, hosiery, socks, tights, gloves, belts; headwear, namely, hats, caps, visors; footwear, namely, shoes, sandals, slippers, sneakers; Infant's and children's clothing, namely, underwear, infant and toddler one-piece clothing, t-shirts, tank tops, tops, shirts, body suits, creepers, rompers, jumpers, skirts, dresses, shorts, pants, jeans, bottoms, short sets, sunsuits, sweat pants, sweatshirts, hooded sweatshirts, swim wear, sleepwear, pajamas, nightgowns, sleepers, robes, socks, tights, layette sets, cloth bibs, jackets, raincoats, mittens, gloves; infant's and children's headwear, namely, hats, caps, headbands; infant's and children's footwear, namely, booties, shoes, sneakers, sandals, slippers

34. The New Class 025 application uses an earliest first use date of June 30, 2004 that is near to Plaintiff's Prior Registration for International Classes 016 (June 2, 2004), 025 (July 25, 2004) and 035 (August 2, 2004), but the goods claimed in the New Class 025 Application are far more extensive than the goods listed in Plaintiff's Prior Registration and include a variety of men's and women's clothing, in addition to items for infants and children.

35. Also on July 22, 2015, LTD2 filed an application, U.S. Ser. No. 86701617 for IT'S A GIRL'S WORLD in International Class 014 (the "New Class 014 Application") for:

Alarm clocks; Ankle bracelets; Bangles; Bracelets; Broaches; Brooches; Charms; Chokers; Clip earrings; Clocks and watches; Costume jewelry; Cufflinks; Ear clips; Earrings; Gemstone jewelry; Jewelry; Jewelry boxes; Locketts; Rings; Tie clips; Timepieces; Watches

36. The New Class 014 Application uses an earliest first use date of July 1, 2015. Collectively, the New Class 025 Application and the New Class 014 Application are referred to as "the New Applications."

37. The applicant listed on the New Applications, LTD2, has the same address as Defendant Bluestar. According to the New York Secretary of State database, LTD2 Brand Holdings LLC was created on June 24, 2015.

38. The correspondent for the New Applications is Joseph S. Sutton, Bluestar's General Counsel, with an email address of [JSutton@bluestarall.com](mailto:JSutton@bluestarall.com).

39. During discussions with Bluestar following the filing of the Verified Complaint, Bluestar repeatedly represented that it had not undertaken any efforts to begin designing products or advertisements under the LIMITED TOO trademarks, at one time stating that it had "no product ready for the marketplace."

40. The specimens of use submitted by LTD2 in connection with the New Applications, relevant portions of which are copied below, include the mark LIMITED TOO.



41. In filing the New Applications, LTD2 swore under oath, in relevant part, that:

The signatory believes that: if the applicant is filing the application under 15 U.S.C. § 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant is using the mark in commerce on or in connection with the goods/services in the application; the specimen(s) shows the mark as used on or in connection with the goods/services in the application.... The signatory believes that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive. The signatory being warned



that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

42. Mr. Sutton claimed that LTD2's first use date is based on the prior use by LTD2's "predecessor in interest."

43. Plaintiff and its affiliates created the IT'S A GIRL'S WORLD trademark in 2004 for their exclusive use.

44. LTD2's actual predecessor in interest never used or held an ownership interest in Plaintiff's IT'S A GIRL'S WORLD trademark.

45. Upon information and belief, these actions of Defendants cannot be merely an innocent mistake. Upon information and belief, Defendants have appropriated Plaintiff's intellectual property with intent to associate the announcement and launch of its LIMITED TOO stores with Tween and its JUSTICE stores. Defendants have exhibited a clear course of conduct to appropriate the good will and reputation associated with Tween, and an ongoing, massive misunderstanding regarding the scope of what it actually allegedly purchased related to the LIMITED TOO trademarks.

46. Given that many of Tween's customers are young children or teens, they often are not very sophisticated and could be duped into believing the LIMITED TOO stores are somehow still related to Tween's JUSTICE stores. Defendants' actions are thus likely to cause consumer confusion in the marketplace that Defendants are somehow associated with or licensed by Plaintiff.

#### **Defendants' Actions Are Causing Irreparable Harm**

47. Plaintiff and its authorized licensee, Tween Brands Service, will suffer irreparable harm if Defendants' infringing and unfair actions continue in the marketplace. By taking the

shortcut of misappropriating Tween's successful designs, including eight copyrighted works and its IT'S A GIRL'S WORLD trademark, Defendants are gaining an unearned foothold in the market by introducing the new LIMITED TOO brand through piggybacking on Plaintiff's intellectual property and well-established, iconic JUSTICE brand. No amount of money could compensate Plaintiff for the harm to the reputation and good will associated with its designs and the JUSTICE retail business.

48. Upon information and belief, Defendant Bluestar intends to open more than 200 stores starting in the Fall of 2016 and has represented to the U.S. Patent and Trademark Office that it is currently offering a wide variety of goods for sale in interstate commerce using the IT'S A GIRL'S WORLD trademark. Given its brazen misappropriation of Plaintiff's intellectual property in announcing the acquisition of LIMITED TOO, Plaintiff suspects that Defendants may be accessing or already have other intellectual property of Plaintiff and be planning to use it for Defendant Bluestar's competing clothing and stores, and the advertising of its products and stores in its promised "social media and marketing blitz."

### **COUNT I**

#### **Copyright Infringement (the Photograph) – Against Beanstalk and Bluestar**

49. Plaintiff repeats and re-allege the allegations set forth in the preceding paragraphs, as if set forth fully herein.

50. Plaintiff is the holder of all exclusive rights under the Copyright Act, 17 U.S.C. § 101, *et seq.*, and all amendments thereto, to reproduce, distribute, and otherwise exploit the Photograph throughout the United States and the world.

51. Upon information and belief, Defendants Beanstalk and Bluestar directly copied original elements of the Photograph, and the Infringing Materials are substantially similar, if not identical in all material aspects, to Plaintiff's Photograph.

52. Upon information and belief, Defendants Beanstalk and Bluestar distributed the Infringing Materials in interstate commerce.

53. The advertising and distribution of the Infringing Materials constitute an unauthorized reproduction and distribution of the Photograph.

54. Upon information and belief, Defendants Beanstalk and Bluestar's infringement of the Photograph was objectively unreasonable and a direct result of their reckless indifference to the fact that the work is protected by copyright, and that in doing the acts complained of, Defendants have willfully infringed Plaintiff's copyright in and to the Photograph.

55. Plaintiff has sustained damages as a result of Defendants Beanstalk and Bluestar's wrongful acts as alleged herein. Plaintiff is presently unable to ascertain the full extent of the money damages it has suffered by reason of said act of copyright infringement.

56. Upon information and belief, Defendants have obtained gains, profits and/or advantages as a result of their infringing acts as alleged herein. Plaintiff is presently unable to ascertain the full extent of gains, profits and/or advantages Defendants have obtained by reason of their acts of copyright infringement.

57. Plaintiff has suffered and continues to suffer irreparable harm and injury as a result of the aforesaid infringing act of Defendants Beanstalk and Bluestar, and will continue to do so unless Defendants are restrained and enjoined by the Court from further violation of Plaintiff's copyrights.

**COUNT II**

**Copyright Infringement (the Daisy) – Against Bluestar**

58. Plaintiff repeats and re-allege the allegations set forth in the preceding paragraphs, as if set forth fully herein.

59. Plaintiff is the holder of all exclusive rights under the Copyright Act, 17 U.S.C. § 101, *et seq.*, and all amendments thereto, to reproduce, distribute, and otherwise exploit the Daisy throughout the United States and the world.

60. Upon information and belief, Defendant Bluestar directly copied original elements of the Daisy, and Defendant's Infringing Materials are substantially similar, if not identical in all material aspects, to Plaintiff's Daisy.

61. Upon information and belief, Defendant Bluestar distributed the Infringing Materials in interstate commerce.

62. The advertising and distribution of the Infringing Materials constitute an unauthorized reproduction and distribution of the Daisy.

63. Upon information and belief, Defendant's infringement of the Daisy was objectively unreasonable and a direct result of Bluestar's reckless indifference to the fact that the work is protected by copyright, and that in doing the acts complained of, Defendant has willfully infringed Plaintiff's copyright in and to the Daisy.

64. Plaintiff has sustained damages as a result of Defendant's wrongful acts as alleged herein. Plaintiff is presently unable to ascertain the full extent of the money damages it has suffered by reason of said act of copyright infringement.

65. Upon information and belief, Defendant has obtained gains, profits and/or advantages as a result of its infringing act as alleged herein. Plaintiff is presently unable to

ascertain the full extent of gains, profits and/or advantages Defendant has obtained by reason of its act of copyright infringement.

66. Plaintiff has suffered and continues to suffer irreparable harm and injury as a result of the aforesaid infringing act of Defendant Bluestar, and will continue to do so unless Defendant is restrained and enjoined by the Court from further violation of Plaintiff's copyrights.

### **Count III**

#### **Copyright Infringement (Hope Clothing Design) – Against Beanstalk and Bluestar**

67. Plaintiff repeats and re-allege the allegations set forth in the preceding paragraphs, as if set forth fully herein.

68. Plaintiff is the holder of all exclusive rights under the Copyright Act, 17 U.S.C. § 101, *et seq.*, and all amendments thereto, to reproduce, distribute, and otherwise exploit the Hope Clothing Design throughout the United States and the world.

69. Upon information and belief, Defendants Beanstalk and Bluestar directly copied original elements of the Hope Clothing Design, and Defendants' Infringing Materials are substantially similar, if not identical, to Plaintiff's Hope Clothing Design.

70. Upon information and belief, Defendants Beanstalk and Bluestar distributed the Infringing Materials in interstate commerce.

71. The advertising and distribution of the Infringing Materials constitute an unauthorized reproduction and distribution of the Hope Clothing Design.

72. Upon information and belief, Defendants Beanstalk and Bluestar's infringement of the Hope Clothing Design was objectively unreasonable and a direct result of their reckless indifference to the fact that the work is protected by copyright, and that in doing the acts

complained of, Defendants have willfully infringed Plaintiff's copyright in and to the Hope Clothing Design.

73. Plaintiff has sustained damages as a result of Defendants' wrongful acts as alleged herein. Plaintiff is presently unable to ascertain the full extent of the money damages it has suffered by reason of said acts of copyright infringement.

74. Upon information and belief, Defendants have obtained gains, profits and/or advantages as a result of their infringing acts as alleged herein. Plaintiff is presently unable to ascertain the full extent of gains, profits and/or advantages Defendants have obtained by reason of their acts of copyright infringement.

75. Plaintiff has suffered and continues to suffer irreparable harm and injury as a result of the aforesaid infringing act of Defendants Beanstalk and Bluestar, and will continue to do so unless Defendants are restrained and enjoined by the Court from further violation of Plaintiff's copyrights.

#### **COUNT IV**

##### **Copyright Infringement (Zebra Clothing Design) – Against Beanstalk and Bluestar**

76. Plaintiff repeats and re-allege the allegations set forth in the preceding paragraphs, as if set forth fully herein.

77. Plaintiff is the holder of all exclusive rights under the Copyright Act, 17 U.S.C. § 101, *et seq.*, and all amendments thereto, to reproduce, distribute, and otherwise exploit the Zebra Clothing Design throughout the United States and the world.

78. Upon information and belief, Defendants Beanstalk and Bluestar directly copied original elements of the Zebra Clothing Design, and Defendants' Infringing Materials are substantially similar, if not identical, to Plaintiff's Zebra Clothing Design.

79. Upon information and belief, Defendants Beanstalk and Bluestar distributed the Infringing Materials in interstate commerce.

80. The advertising and distribution of the Infringing Materials constitute an unauthorized reproduction and distribution of the Zebra Clothing Design.

81. Upon information and belief, Defendants Beanstalk and Bluestar's infringement of the Zebra Clothing Design was objectively unreasonable and a direct result of their reckless indifference to the fact that the work is protected by copyright, and that in doing the acts complained of, Defendants have willfully infringed Plaintiff's copyright in and to the Zebra Clothing Design.

82. Plaintiff has sustained damages as a result of Defendants' wrongful acts as alleged herein. Plaintiff is presently unable to ascertain the full extent of the money damages it has suffered by reason of said acts of copyright infringement.

83. Upon information and belief, Defendants have obtained gains, profits and/or advantages as a result of their infringing acts as alleged herein. Plaintiff is presently unable to ascertain the full extent of gains, profits and/or advantages Defendants have obtained by reason of their acts of copyright infringement.

84. Plaintiff has suffered and continues to suffer irreparable harm and injury as a result of the aforesaid infringing acts of Defendants Beanstalk and Bluestar, and will continue to do so unless Defendants are restrained and enjoined by the Court from further violation of Plaintiff's copyrights.

#### **COUNT V**

#### **Copyright Infringement (Heart Clothing Design) – Against Beanstalk and Bluestar**

85. Plaintiff repeats and re-allege the allegations set forth in the preceding paragraphs, as if set forth fully herein.

86. Plaintiff is the holder of all exclusive rights under the Copyright Act, 17 U.S.C. § 101, *et seq.*, and all amendments thereto, to reproduce, distribute, and otherwise exploit the Heart Clothing Design throughout the United States and the world.

87. Upon information and belief, Defendants Beanstalk and Bluestar directly copied original elements of the Heart Clothing Design, and Defendants' Infringing Materials are substantially similar, if not identical, to Plaintiff's Heart Clothing Design.

88. Upon information and belief, Defendants Beanstalk and Bluestar distributed the Infringing Materials in interstate commerce.

89. The advertising and distribution of the Infringing Materials constitute an unauthorized reproduction and distribution of the Heart Clothing Design.

90. Upon information and belief, Defendants Beanstalk and Bluestar's infringement of the Heart Clothing Design was a direct result of their reckless indifference to the fact that the work is protected by copyright, and that in doing the acts complained of, Defendants have willfully infringed Plaintiff's copyright in and to the Heart Clothing Design.

91. Plaintiff has sustained damages as a result of Defendants' wrongful acts as alleged herein. Plaintiff is presently unable to ascertain the full extent of the money damages it has suffered by reason of said acts of copyright infringement.

92. Upon information and belief, Defendants have obtained gains, profits and/or advantages as a result of their infringing acts as alleged herein. Plaintiff is presently unable to ascertain the full extent of gains, profits and/or advantages Defendants have obtained by reason of their acts of copyright infringement.



93. Plaintiff has suffered and continues to suffer irreparable harm and injury as a result of the aforesaid infringing act of Defendants, and will continue to do so unless Defendants are restrained and enjoined by the Court from further violation of Plaintiff's copyrights.

#### **COUNT VI**

##### **Copyright Infringement (Love Clothing Design) – Against Beanstalk and Bluestar**

94. Plaintiff repeats and re-allege the allegations set forth in the preceding paragraphs, as if set forth fully herein.

95. Plaintiff is the holder of all exclusive rights under the Copyright Act, 17 U.S.C. § 101, *et seq.*, and all amendments thereto, to reproduce, distribute, and otherwise exploit the Love Clothing Design throughout the United States and the world.

96. Upon information and belief, Defendants Beanstalk and Bluestar directly copied original elements of the Love Clothing Design, and Defendants' Infringing Materials are substantially similar, if not identical, to Plaintiff's Love Clothing Design.

97. Upon information and belief, Defendants Beanstalk and Bluestar distributed the Infringing Materials in interstate commerce.

98. The advertising and distribution of the Infringing Materials constitute an unauthorized reproduction and distribution of the Love Clothing Design.

99. Upon information and belief, Defendants Beanstalk and Bluestar's infringement of the Love Clothing Design was a direct result of their reckless indifference to the fact that the work is protected by copyright, and that in doing the acts complained of, Defendants have willfully infringed Plaintiff's copyright in and to the Love Clothing Design.

100. Plaintiff has sustained damages as a result of Defendants' wrongful acts as alleged herein. Plaintiff is presently unable to ascertain the full extent of the money damages it has suffered by reason of said acts of copyright infringement.

101. Upon information and belief, Defendants have obtained gains, profits and/or advantages as a result of their infringing acts as alleged herein. Plaintiff is presently unable to ascertain the full extent of gains, profits and/or advantages Defendants have obtained by reason of their acts of copyright infringement.

102. Plaintiff has suffered and continues to suffer irreparable harm and injury as a result of the aforesaid infringing acts of Defendants, and will continue to do so unless Defendants are restrained and enjoined by the Court from further violation of Plaintiff's copyrights.

### **COUNT VII**

#### **Copyright Infringement (Giraffe Clothing Design) – Against Beanstalk and Bluestar**

103. Plaintiff repeats and re-allege the allegations set forth in the preceding paragraphs, as if set forth fully herein.

104. Plaintiff is the holder of all exclusive rights under the Copyright Act, 17 U.S.C. § 101, *et seq.*, and all amendments thereto, to reproduce, distribute, and otherwise exploit the Giraffe Clothing Design throughout the United States and the world.

105. Upon information and belief, Defendants Beanstalk and Bluestar directly copied original elements of the Giraffe Clothing Design, and the Infringing Materials are substantially similar, if not identical, to Plaintiff's Giraffe Clothing Design.

106. Upon information and belief, Defendant Beanstalk and Bluestar distribute the Infringing Materials in interstate commerce.

107. The advertising and distribution of the Infringing Materials constitute an unauthorized reproduction and distribution of the Giraffe Clothing Design.

108. Upon information and belief, Defendants Beanstalk and Bluestar's infringement of the Giraffe Clothing Design was a direct result of their reckless indifference to the that the

work is protected by copyright, and that in doing the acts complained of, Defendants have willfully infringed Plaintiff's copyright in and to the Giraffe Clothing Design.

109. Plaintiff has sustained damages as a result of Defendants' wrongful acts as alleged herein. Plaintiff is presently unable to ascertain the full extent of the money damages it has suffered by reason of said acts of copyright infringement.

110. Upon information and belief, Defendants have obtained gains, profits and/or advantages as a result of their infringing acts as alleged herein. Plaintiff is presently unable to ascertain the full extent of gains, profits and/or advantages Defendants have obtained by reason of their acts of copyright infringement.

111. Plaintiff has suffered and continues to suffer irreparable harm and injury as a result of the aforesaid infringing acts of Defendants, and will continue to do so unless Defendants are restrained and enjoined by the Court from further violation of Plaintiff's copyrights.

### **COUNT VIII**

#### **Copyright Infringement (Tiger Clothing Design) – Against Beanstalk and Bluestar**

112. Plaintiff repeats and re-allege the allegations set forth in the preceding paragraphs, as if set forth fully herein.

113. Plaintiff is the holder of all exclusive rights under the Copyright Act, 17 U.S.C. § 101, *et seq.*, and all amendments thereto, to reproduce, distribute, and otherwise exploit the Tiger Clothing Design throughout the United States and the world.

114. Upon information and belief, Defendants Beanstalk and Bluestar directly copied original elements of the Tiger Clothing Design, and the Infringing Materials are substantially similar, if not identical, to Plaintiff's Tiger Clothing Design.

115. Upon information and belief, Defendants distribute the Infringing Materials in interstate commerce.

116. The advertising and distribution of the Infringing Materials constitute an unauthorized reproduction and distribution of the Tiger Clothing Design.

117. Upon information and belief, Defendants Beanstalk and Bluestar's infringement of the Tiger Clothing Design was a direct result of their reckless indifference to the fact that the work is protected by copyright, and that in doing the acts complained of, Defendants have willfully infringed Plaintiff's copyright in and to the Tiger Clothing Design.

118. Plaintiff has sustained damages as a result of Defendants' wrongful acts as alleged herein. Plaintiff is presently unable to ascertain the full extent of the money damages it has suffered by reason of said acts of copyright infringement.

119. Upon information and belief, Defendants have obtained gains, profits and/or advantages as a result of their infringing acts as alleged herein. Plaintiff is presently unable to ascertain the full extent of gains, profits and/or advantages Defendants have obtained by reason of their acts of copyright infringement.

120. Plaintiff has suffered and continues to suffer irreparable harm and injury as a result of the aforesaid infringing acts of Defendants, and will continue to do so unless Defendants are restrained and enjoined by the Court from further violation of Plaintiff's copyrights.

### **COUNT IX**

#### **Federal Unfair Competition – Against Bluestar**

121. Plaintiff repeats and re-alleges the allegations set forth in the preceding paragraphs, as if set forth fully herein.

122. This claim arises under the provisions of the Trademark Act of 1946, 15 U.S.C. § 1051, *et seq.*, particularly under 15 U.S.C. § 1125(a). As detailed more fully above, Defendant Bluestar has featured in its advertising materials a Photograph that includes iconic elements associated with Plaintiff's JUSTICE brand, including the combination of: (1) clothing featuring non-functional 3-D design elements consistently utilized in JUSTICE brand clothing such as ruffles, fringe, sequins, and extra glitter; (2) clothing featuring specific design motifs, including the hope and love graphics and tiger designs, that were used over time across multiple product categories sold by JUSTICE stores; (3) young models featured multiple times in different JUSTICE advertising campaigns.

123. Upon information and belief, the foregoing combination of iconic JUSTICE elements are inherently distinctive and/or have acquired distinctiveness as a result of their consistent, repeated use over time, extensive distribution, and high recognition amongst the relevant consuming public.

124. Defendant's use of the Photograph featuring the iconic JUSTICE elements is likely to cause confusion and mistake and to deceive the public that Defendant Bluestar is sponsored or licensed by, or is in some other way connected and/or associated with Plaintiff and/or Tween, all in violation of 15 U.S.C. § 1125(a).

125. The acts of Defendant complained of herein constitute an attempt to trade on Plaintiff's goodwill, to the detriment of Plaintiff.

126. Defendant Bluestar has actively disputed Plaintiff's right to protect the iconic JUSTICE elements and refuses to agree to refrain from unfairly competing against Plaintiff.

127. As a result of Defendant's acts as alleged above, Plaintiff and its authorized licensee have suffered and will continue to suffer irreparable harm in the form of damage and

injury to their business, reputation and goodwill, and will continue to do so unless and until Defendant is preliminarily and permanently restrained and enjoined by the Court from further violating Plaintiff's rights.

**COUNT X**

**Federal Unregistered Trademark Infringement – Against Bluestar and LTD2**

128. Plaintiff repeats and re-alleges the allegations set forth in the preceding paragraphs, as if set forth fully herein.

129. This claim arises under the provisions of the Trademark Act of 1946, 15 U.S.C. § 1051, *et seq.*, particularly under 15 U.S.C. § 1125(a). As detailed more fully above, Defendants Bluestar and LTD2 have used and/or claimed to use in interstate commerce the phrase IT'S A GIRL'S WORLD in connection with the same or similar products and services offered by Plaintiff under its IT'S A GIRL'S WORLD trademark.

130. Upon information and belief, Plaintiff's IT'S A GIRL'S WORLD trademark is inherently distinctive and/or has acquired distinctiveness as a result of Plaintiff's consistent, extensive, and substantially exclusive use of the mark for many years and continued association by the public of the mark with Plaintiff.

131. Defendants' use of Plaintiff's IT'S A GIRL'S WORLD trademark is likely to cause confusion and mistake and to deceive the public that Defendants Bluestar and LTD2 are sponsored or licensed by, or is in some other way connected and/or associated with Plaintiff and/or Tween, all in violation of 15 U.S.C. § 1125(a).

132. The acts of Defendants complained of herein constitute an attempt to trade on Plaintiff's goodwill developed in connection with the JUSTICE stores, to the detriment of Plaintiff.

133. Defendant Bluestar has actively disputed Plaintiff's right to protect the IT'S A GIRL'S WORLD trademark and LTD2 is currently attempting to register the mark in its own name in derogation of Plaintiff's rights.

134. As a result of Defendants' acts as alleged above, Plaintiff has suffered and will continue to suffer irreparable harm in the form of damage and injury to its business, reputation and goodwill, and will continue to do so unless and until Defendants are preliminarily and permanently restrained and enjoined by the Court from further violating Plaintiff's rights.

### **COUNT XI**

#### **Unfair Competition Under Ohio Common Law – Against Bluestar and LTD2**

135. Plaintiff repeats and re-alleges the allegations set forth in the preceding paragraphs, as if set forth fully herein.

136. This claim arises under the common law of the State of Ohio.

137. Defendants' intentional and willful acts as alleged above were committed in bad faith with the intent to cause confusion and mistake—deceiving the public as to whether Defendant Bluestar is sponsored or licensed by, or is in some other way connected and/or associated with Plaintiff, in violation of Ohio common law.

138. Plaintiff has no adequate remedy at law. As a result of Defendants' acts as alleged above, Plaintiff and its authorized licensee have suffered and will continue to suffer irreparable harm in the form of damage and injury to their business, reputation and goodwill, and will sustain serious loss of revenues and profits, and will continue to do so unless and until Defendants are preliminarily and permanently restrained and enjoined by the Court from further violating Plaintiff's rights.

**COUNT XII**

**Unjust Enrichment Under Ohio Common Law – Against Bluestar and LTD2**

139. Plaintiff repeats and re-alleges the allegations set forth in the preceding paragraphs, as if set forth fully herein.

140. This claim arises under Ohio Common Law.

141. Plaintiff has, albeit unwillingly, conferred an economic benefit upon Defendants Bluestar and LTD2, insofar as Defendants have appropriated for their use and benefit Plaintiff's economic investment, time, and resulting goodwill in the trademark IT'S A GIRL'S WORLD, without payment or other compensation to Plaintiff.

142. Upon information and belief, Defendants Bluestar and LTD2 knew they were receiving an economic benefit from Plaintiff, because Defendants were aware of Plaintiff's Prior Registrations for the trademark, Defendants were aware of the goodwill existing in the trademark, and LTD2 based its claim of prior, continued use on Plaintiff's use of the mark knowing full well the value attributable to having an early date of first use in commerce.

143. It would be unjust for Defendants to retain the benefit of Plaintiff's economic investment, time, and resulting goodwill in the trademark IT'S A GIRL'S WORLD, without payment or other compensation to Plaintiff.

144. Plaintiff has no adequate remedy at law. As a result of Defendants' acts as alleged above, Plaintiff has suffered and will continue to suffer irreparable harm in the form of damage and injury to its business, reputation and goodwill, and will sustain serious loss of revenues and profits, and will continue to do so unless and until Defendant is preliminarily and permanently restrained and enjoined by the Court from further violating Plaintiff's rights.



**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff asks this Court to:

1. Grant a preliminary injunction and thereafter a permanent injunction restraining and enjoining Defendants Bluestar and LTD2 and any and all principals, officers, agents, servants, employees, attorneys, representatives, successors and assigns of Defendants, and all those in privity, concert or participation with Defendants and all those who receive actual notice of this order, from:

- (i) altering or destroying any potentially discoverable materials in its possession or control, including advertisements, marketing and promotional materials, electronically stored media on any computers, servers, hardware, software, documents, phones, cloud-based storage accounts, email, and all other means of storing electronic data,
- (ii) directly or indirectly infringing Plaintiff's Copyrighted Works, in any manner, including generally, but not limited to, manufacturing, distributing, advertising, selling, and/or offering for sale and distribution any advertising or merchandise which infringes the Plaintiff's Copyrighted Works, and specifically using them in connection with any unauthorized promotional materials, announcements or the like which picture, reproduce or utilize the likenesses of, or which bear substantial similarity to, any of the Copyrighted Works;
- (iii) engaging in any conduct that tends falsely to represent that, or is likely to confuse, mislead, or deceive purchasers, Defendants' customers, and/or members of the public to believe that the actions of Defendants or Defendant Bluestar itself is sponsored, approved, or licensed by Plaintiff or Tween, or is in some way

connected or affiliated with Plaintiff or Tween;

(iv) otherwise competing unfairly with Plaintiff or Tween in an manner;

(v) and assisting, aiding or abetting another person or business entity in engaging or performing any of the activities enumerated above.

2. Find that Defendants Beanstalk and Bluestar have infringed Plaintiff's Copyrighted Works in violation of federal law by the acts complained of herein.

3. Find that Defendants Bluestar and LTD2 have competed unfairly in violation of federal law by the acts complained of herein.

4. Find that Defendant Bluestar has competed unfairly in violation of Ohio common law by the acts complained of herein.

5. Find that Defendants Bluestar and LTD2 have infringed Plaintiff's trademark rights in and to IT'S A GIRL'S WORLD.

6. Find that Defendants Bluestar and LTD2 have been unjustly enriched in violation of Ohio common law by the acts complained of herein.

7. Issue an order requiring Defendants and any and all principals, officers, agents, servants, employees, attorneys, successors, and assigns, and all those in active privity or concert with Defendants who receive actual notice of said order, to deliver to Plaintiff for destruction all materials in its possession or under its control which bear unauthorized simulations, copies or colorable imitations of Plaintiff's intellectual property, including but not limited to the Copyrighted Works.

8. Require Defendants to disseminate corrective advertising, at Defendants' expense and subject to Plaintiff's approval, that informs consumers, the trade and the public at large of Defendants' unlawful conduct as complained of herein and of the judgment requiring

Defendants to cease such unlawful conduct, and/or require Defendants to pay Plaintiff's costs in producing and disseminating such corrective advertising.

9. Order that Defendant LTD2 transfer the New Applications to Plaintiff or, should registrations issue on those applications during the pendency of this action, order the United States Patent and Trademark Office to cancel the same.

10. Direct Defendants to file with this Court and serve on counsel for Plaintiff, within thirty (30) days after entry of the Injunction, a written report under oath setting forth in detail the manner in which Defendants have complied with the foregoing paragraphs.

11. Award Plaintiff monetary relief in an amount to be fixed by the Court in its discretion as just, including all damages sustained by Plaintiff, and/or all of Defendants' profits or gains of any kind resulting from their willful infringement, said amount to be trebled, and exemplary damages in view of the nature of the acts complained of herein pursuant to 15 U.S.C. § 1117.

12. In the event Plaintiff elects statutory damages in lieu of actual damages pursuant to the Copyright Law, order Defendants to pay such statutory damages as to the Court shall appear just, as specified in 17 U.S.C. § 504(c)(1), for Defendants' acts of copyright infringement.

13. Award to Plaintiff its attorneys' fees and costs and expenses of litigation pursuant to 17 U.S.C. § 505.

14. Award to Plaintiff its attorneys' fees, due to the exceptional nature of this case, and all of Plaintiff's costs and expenses of litigation, pursuant to 15 U.S.C. § 1117(a).

15. Order an accounting and render judgment against Defendants for all profits wrongfully derived by Defendants by reason of their copyright infringement, trademark

infringement, unfair competition, and unjust enrichment, as appropriate.

16. Award all damages adequate to compensate Plaintiff for Defendants' acts of copyright infringement, trademark infringement, unfair competition, and unjust enrichment, as appropriate.

17. Require Defendants to pay Plaintiff prejudgment and post-judgment interest at the applicable rates on all amounts awarded.

18. Grant to Plaintiff such other and further relief as the Court may deem just, proper and equitable under the circumstances.

Dated August 18, 2015

Respectfully submitted,

s/ Christina J. Moser

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*Attorneys for Plaintiff Tween Brands  
Investment, LLC*

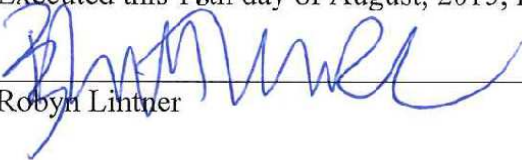
**JURY DEMAND**

Pursuant to Civ. R. 38, Plaintiff Tween Brands Investment, LLC demands a trial by jury consisting of the maximum number of jurors allowed by law to hear all claims in this action.

**VERIFICATION**

I, Robyn Lintner, under penalty of perjury of the laws of the United States declares: That she is the Director of Marketing, Traffic and Production at Tween Brands Service Co.; that she is authorized by Plaintiff Tween Brands Investments, LLC to verify the foregoing First Amended Verified Complaint; that she has read, is familiar with, and has personal knowledge of the contents of the foregoing First Amended Verified Complaint; and that the allegations thereof are true and correct or, to the extent to which matters are not within her personal knowledge, that the facts stated therein have been assembled by authorized personnel, and that she is informed that the facts stated therein are true and correct.

Executed this 18<sup>th</sup> day of August, 2015, in Columbus, Ohio.

  
\_\_\_\_\_  
Robyn Lintner

**CERTIFICATE OF SERVICE**

I hereby certify that on August 18, 2015, a copy of the foregoing was filed electronically.  
Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

s/ Christina J. Moser  
*One of the attorneys for Plaintiff Tween*  
*Brands Investment, LLC*